



U.S. Department of Justice

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August 5, 2019

BY ECF

The Honorable James L. Cott
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *The New York Times Company, et al. v. Department of Education*
No. 19-cv-693 (LTS) (JLC)

Dear Judge Cott:

This Office represents the United States Department of Education (“DOE” or “Defendant”) in connection with the above-referenced action brought pursuant to the Freedom of Information Act. I write on behalf of both parties to provide the Court with a status update regarding document production as required by the Court’s order (the “Scheduling Order”) dated April 25, 2019. *See* Dkt. No. 15.

On May 10, 2019, Defendant produced 522 pages of documents to Plaintiffs. As requested by Plaintiffs, these documents were comprised of emails from the account of United States Secretary of Education Betsy DeVos. On May 30, 2019, Defendants produced an additional 515 pages of documents, which were also comprised of Secretary DeVos’s emails. On July 1, 2019, Defendant produced 525 pages of documents, again comprised of Secretary DeVos’s emails. Accordingly, Defendant has produced 1,562 pages of documents to date. Defendant does not know how many outstanding responsive pages of documents remain for Secretary DeVos or the other custodians.

As to the next production, on July 15, 2019, Plaintiffs informed Defendant they want one attachment to a released record that was not included in the prior productions. Accordingly, pursuant to the Scheduling Order, thirty days thereafter—August 14, 2019—Defendant will produce 1,000 pages of documents, comprised of this attachment as well as additional emails. Thereafter, Plaintiffs will identify any additional attachments they want from this August 14 production, and Defendant will have 30 days from the date of that identification to produce 1,000 pages of documents comprised of any identified attachments and, to the extent those attachments amount to less than 1,000 pages, additional emails in order to reach the 1,000-page threshold. The parties will follow this same procedure for subsequent productions.

Defendant anticipates that the August 14 production will again consist entirely of Secretary DeVos's emails. Once those emails have been exhausted, Defendant will move to the next custodian Plaintiffs have identified. Defendant expects that its productions for the remaining custodians will be de-duplicated.

The parties also note that after the August 14 production, the parties will confer about excluding certain documents (news articles and summaries of news articles) from the remaining productions.

The parties thank the Court for its attention to this matter.

Respectfully,

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